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## PROCEDURE TO FILE AN APPEAL WITH THE STATE DIVISION OF ALCOHOLIC BEVERAGE CONTROL FROM A MUNICIPAL ACTION

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Valuable legal rights are involved in an appeal. The Division of ABC strongly suggests that you seek advice from competent, private legal counsel. We also suggest that you read N.J.S.A.33:1-22, 25, 26, 31, 32 and 38 as well as N.J.A.C. 13:2-17.1, et seq. for information about appealing to the Division of ABC.

Procedurally, you must send the Director of the Division of ABC three items:

1. A "NOTICE AND PETITION OF APPEAL" This notice must contain the following information in separate paragraphs.
  1. The licensee's legal name (i.e., ABC, Inc.), 12-digit license number, trade name (i.e., Tic Tack Club), and phone number and address where it can be reached.
  2. The full name, address and telephone number of the city or town.
  3. If the appeal is from a denial of a license issuance or transfer and a written objection was submitted, that objector's full name, address and telephone number must also be stated in the Notice and Petition of Appeal.
  4. THE PROCEEDINGS BELOW MUST BE DESCRIBED. For example, a 15-day suspension was imposed upon the licensee for sale to a minor. Where a suspension is involved, please state the date it is to start and finish.
  5. A copy of the municipal resolution setting forth the action must be attached to the Notice and Petition of Appeal. If you do not have the resolution, state the date of the action being appealed from.
  6. THE GROUNDS FOR THE APPEAL MUST BE STATED. For example, the decision of the municipality was erroneous.
  7. THE RELIEF (BOTH INTERIM AND FINAL) YOU ARE ASKING FOR MUST BE STATED.
    - For example, for **Interim Relief**, a licensee might request a stay of a suspension or an order extending a prior license where renewal has been denied.
    - For example, for **Final Relief**, a licensee might request reversal of a finding of guilt and/or payment of a monetary penalty in compromise of the penalty imposed by the municipality.

***NOTE: The Notice and Petition of Appeal must be signed by either the licensee (sole proprietor, general partner, president, or vice-president) or an attorney who represents the licensee in the appeal.***

2. An **AFFIDAVIT OF SERVICE** which states that a copy of the Notice and Petition of Appeal has been served upon the local issuing authority (either personally or by way of regular mail).

3. A **\$100 FILING FEE** (check or money order made payable to **Division of ABC**).

**REQUESTING INTERIM RELIEF**

(Regarding interim relief, see, N.J.S.A 33:1-22, 31 and N.J.A.C. 13:2-17.8 to 17.10)

If you are requesting Interim Relief, we require a signed copy of the **RESOLUTION** of the issuing authority (municipality/town). If you are unable to provide us with a copy then, someone who has personal knowledge of the facts must submit an affidavit that the municipality/town's action against the license was as follows: (then explain in detail).

**TIME LIMITS**

(See N.J.S.A 33:1-22, 31 and N.J.A.C. 13:2-17.3)

1. Appeals by any taxpayer or other aggrieved person from the issuance of a license or from the grant of an application for the extension or transfer of a license must be taken within 30 days from the date of issuance, extension or transfer of the license. All other appeals by a licensee or applicant for a license must be taken within 30 days after the personal service or mailing by registered mail of a written notice by the municipal issuing authority of the action taken against the licensee or the applicant. **Non-action on the part of the municipality/town, may be appealed as follows:**

1. Application for **Issuance**: 45 days from the date of a duly filed application for issuance of a new license, unless applicant consents to an extension. N.J.A.C. 13:2-2.10(a).
2. Application for **Renewal**: 90 days after expiration of term. N.J.A.C. 13:2-2.10(b).
3. Application for **Transfer**: 60 days of the date of filing the application. N.J.A.C. 13:2-7.7(d).

**NOTE: For the time period to begin, the application filed must be fully complete, all fees paid, and all required disclosures must have been made by the applicant.**

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